

**IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN  
DISTRICT OF WEST VIRGINIA**

**JAMES RIVER EQUIPMENT,  
VIRGINIA, LLC, a Virginia Limited  
Liability Company,**

**PLAINTIFF,**

**v.**

**Civil Action No. 5:13-cv-28160  
Honorable Irene Berger**

**JUSTICE ENERGY COMPANY, INC. a  
West Virginia Corporation,**

**DEFENDANT.**

**JAMES RIVER EQUIPMENT, VIRGINIA, LLC'S MOTION TO COMPEL AND  
MOTION FOR CONTEMPT**

**NOW COMES** Plaintiff James River Equipment Virginia, LLC (hereinafter referred to as "James River"), through counsel, Jason S. Hammond and the law firm Bailey & Wyant, PLLC and for its Motion to Compel and Motion for Contempt states and avers as follows:

1. On or about November 6, 2013, Plaintiff James River Equipment Virginia, LLC filed its Complaint in the United States District Court for the Southern District of West Virginia, asserting a breach of contract and unjust enrichment against the Defendant, Justice Energy Company, Inc. for services and equipment provided to the Defendant in the amount of at least \$148,496.14, in addition to continuing prejudgment interest, attorney's fees and collection costs.
2. On January 21, 2014, Honorable Judge Irene Berger entered an Order granting the Plaintiff default judgment in the amount of \$156,112.14, which amount continues to incur statutory post-judgment interest.
3. On April 30, 2014, an Abstract of Judgment was issued by the Clerk of the Court

confirming the judgment in the amount of \$156,112.16, with legal interest thereon at 11% per annum from the date of the judgment until paid. This Abstract of Judgment was subsequently recorded in Raleigh County, Wyoming County, and McDowell County, West Virginia.

4. On July 16, 2014, the Plaintiff filed its Motion for Appointment of Commissioner requesting that United States Magistrate Judge R. Clarke VanDervort be appointed in order to act as the commissioner in aid of execution, in order to conduct proceedings in aid of the execution of the Plaintiff's judgment against Justice Energy Company.
5. On August 1, 2014 Judge Berger entered an Order appointing United States Magistrate Judge, R. Clarke VanDervort to serve as the commissioner in aid of execution regarding this matter.
6. On August 19, 2014, United States Magistrate Judge, R. Clarke VanDervort entered an Order scheduling a Status Hearing for Tuesday, September 16, 2014 at 10:30 a.m. for the purpose of discussing the status of the matter and what procedures will likely result in the Defendant's payment of the judgment. The Defendant's agent for service of process was instructed to contact Plaintiff's attorney and inform Plaintiff's counsel regarding "Defendant's intention to attend the hearing of September 16 and pay the amount of the judgment or refer Mr. Hammond to Defendant's attorney to discuss Defendant's intentions". The Defendant's agent for Service of Process, Roman Semenov failed to attend the hearing and failed to comply with the Court's Order by failing or refusing to contact Plaintiff's counsel in order to discuss the Defendant's intention.
7. On October 1, 2014, an Order was entered scheduling a Debtor's Examination to occur on October 14, 2014. and it was Ordered that Justice Energy Company produce a

- representative to attend the hearing in order to aid in the enforcement of the money judgment by answering questions about the judgment debtors' real and personal property.
8. On October 9, 2014, the Plaintiff issued a subpoena to Justice Energy Company requesting that Justice Energy produce twenty-eight (28) categories of documents at the October 14, 2014 hearing.
  9. On October 14, 2014, Vladislav Andreev, Vice President of Finance of Justice Energy, appeared at the hearing in aid of execution. Thereafter, arrangements were made for the Plaintiff to review and obtain the documents from Justice Energy Company, which occurred at the end of October, 2014 and further documents were produced through November, 2014.
  10. On February 17, 2015 it was announced that Jim Justice or an entity closely affiliated had purchased the Bluestone Coal operations, which included those of Justice Energy Company, Inc., in exchange for payment of \$5,000,000.00, certain royalty agreements and the assumption of approximately \$130,000,000.00 in Bluestone subsidiaries' debt. Presumably, this assumption includes the debt of Plaintiff, James River Equipment Virginia, LLC.
  11. On March 12, 2015, United States Magistrate Judge, R. Clarke VanDervort entered an Order scheduling a Status Hearing for Tuesday, March 31, 2015 at 10:30 a.m. The Courts Order determined that the "purpose of the hearing is to discuss the current status of this matter and to consider what procedure(s) likely will result in Defendant's payment of the judgment. Attendance at the conference is mandatory for all parties and/or counsel of record)." A copy of the Order was served upon Justice Energy Company, Inc. via its agent for service of process, Roman Semenov at 100 Cranberry Drive, Beckley, WV

25801.

12. On March 18, 2015, the Plaintiff served a subpoena to appear and testify at a hearing or trial in a civil action upon Justice Energy Company, Inc. care of its agent for service of process, Roman Semenov. The subpoena required Justice Energy Company, Inc., to produce a copy of any agreement or contracts whereby the liabilities of Justice Energy Company, Inc. or its shareholders, parent companies, principals or owners, were assumed, and produce the same at Magistrate VanDervort's courtroom on March 31, 2015 at 10:30 a.m. The subpoena to Justice Energy Company, Inc. was served through the West Virginia Secretary of State on March 19, 2015.
13. Despite being Ordered to attend a hearing on March 31, 2015, and a subpoena requiring attendance, Justice Energy Company, Inc. and/or its agent of service of process, Roman Semenov failed and/or refused to attend the hearing. Furthermore, no objections were filed regarding the subpoena or a Motion to Continue the hearing to another date.
14. At the March 31, 2015 hearing, counsel for the Plaintiff was instructed to contact Mr. Semenov in order to inquire regarding his failure to appear at the hearing. At approximately 10:49 a.m. on March 31, 2015, counsel for the Plaintiff called the Bluestone headquarters and requested Mr. Semenov. A message was then left with Mr. Semenov that he had failed to appear at the hearing and that his conduct was contemptuous. Mr. Semenov was requested to contact the Court either via telephone or in person to explain his failure to appear and failure to pay upon this account.
15. Following the hearing, at 3:54 p.m., the attached correspondence was faxed to Mr. Semenov, agent for service of process for Justice Energy Company, requesting that he contact the Court regarding this matter. *See Exhibit A.* Since March 31, 2015, Mr.

Semenov and agents of Justice Energy Company, Inc. have failed to contact the court in order to explain their absence or failure to pay this lawfully entered judgment. Mr. Semenov did contact Plaintiff's counsel to obtain a copy of the Default Judgement Order. *See emails attached as Exhibit B and C.*

16. Pursuant to Rule 45(g) of the Federal Rules of Civil Procedure, James River Equipment Virginia, LLC respectfully requests that this Honorable Court hold Defendant Justice Energy Company, Inc. and its agent for service of process, Roman Semenov, in contempt for failing to respond to the subpoena that was lawfully issued by the Plaintiff and properly served.
17. Pursuant to Rule 37 of the Federal Rules of Civil Procedure, James River Equipment Virginia, LLC also requests that this Honorable Court sanction the Defendant Justice Energy Company, Inc. for its failure to obey two (2) court orders requiring attendance at hearings as well as the Court's verbal Order requiring Justice Energy Company to contact the Court to explain its absence from the hearing and failure to respond to the subpoena, which was conveyed to Roman Semenov via voicemail message and later confirmed in writing to him.

WHEREFORE, Plaintiff James River Equipment Virginia, LLC respectfully requests that this Honorable Court enforce the subpoena that was issued against Justice Energy Company and sanction Justice Energy Company and its agent for service of process, Roman Semenov for their failure to appear at the March 31, 2015 hearing, and to produce documents requested in the subpoena, including, awarding of attorney's fee and expenses to the Plaintiff and all further relief deemed just and appropriate

Respectfully submitted,  
**James River Equipment, Virginia, LLC**  
**By Counsel,**

/s/ Jason S. Hammond  
**Jason S. Hammond (WV Bar #)**  
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**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy of foregoing **“James River Equipment, Virginia, LLC’s Motion to Compel and Motion for Contempt”** was served upon the following parties by U.S. Mail certified, return receipt requested on this day, Wednesday, April 15, 2015:

Justice Energy Company, Inc.  
c/o Roman Semenov  
100 Cranberry Creek Drive  
Beckley, West Virginia 25801

**/s/ Jason S. Hammond**

**Jason S. Hammond (WV Bar #8042)  
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